



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

August 2, 2011

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

12 August 2, 2011

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

Board of Supervisors
GLORIA MOLINA
First District

MARK RIDLEY-THOMAS
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

AGREEMENT WITH MUNGER, TOLLES & OLSON LLP FOR REAL ESTATE CONSULTING SERVICES (FIRST AND FOURTH DISTRICTS) (3 VOTES)

SUBJECT

This letter recommends that the Chief Executive Officer be delegated the authority to enter into an agreement with Munger, Tolles & Olson LLP for the provision of real property consultation and negotiation services for Marina del Rey and the Los Angeles Civic Center area and for other similar services, as needed.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Authorize the Chief Executive Officer or his designee to enter into a sole-source agreement with Munger, Tolles & Olson LLP for the provision of real property consultation and negotiation services for Marina del Rey and the Los Angeles Civic Center area and for other similar services, as needed, for the period from August 1, 2011 through June 30, 2014, for a maximum not-to-exceed cost of \$1,135,000, upon approval by County Counsel and with notice to your Board.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Since September 2001, the Chief Executive Office (CEO) has engaged Munger, Tolles & Olson LLP (Munger, Tolles) through a Delegated Authority Agreement for intermittent work advising the office on strategy for development and leasing at Marina del Rey, relying particularly on the services of Mr. Richard S. Volpert, but also other staff in his office. In addition, Mr. Volpert has advised and assisted on strategy and negotiations for the Grand Avenue Project and other projects in the downtown Los Angeles Civic Center area.

"To Enrich Lives Through Effective And Caring Service"

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Rather than continuing to extend and amend the existing agreement, we have worked with Mr. Volpert to craft a new agreement incorporating various changes as negotiated with Munger, Tolles. Because of the unique nature of the services we receive, the proposed agreement does not fit well into the CEO's revised standard Delegated Authority Agreement template, as discussed below.

Implementation of Strategic Plan Goals

Renewal of a contractual relationship with Munger, Tolles for real property-related advice and negotiation supports the County's Strategic Plan, Operational Effectiveness (Goal 1) Strategy 1, Fiscal Sustainability to promote sound, prudent, and transparent short- and long-range fiscal policies and practices.

FISCAL IMPACT/FINANCING

The proposed contract will be for \$1,135,000. Of that amount:

- Up to \$785,000 will be reimbursed by ground lessees for Marina del Rey properties, for advice relative to those properties, in accordance with the existing ground leases;
- Up to \$150,000 will be funded by the Nondepartmental Special Accounts (NDSA) for advice relative to Marina del Rey properties under consideration for development by the County, or for overall strategic advice regarding the Marina; and
- Up to \$200,000 will be funded by NDSA for advice regarding the Grand Avenue properties.

Funding is available in the NDSA Fiscal Year 2011-12 budgets for expenditures under this contract anticipated in the current year.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

For nearly ten years, Mr. Volpert has provided advice to the CEO and acted on behalf of the CEO in negotiation of leases for various properties, including primarily ground lease extensions in Marina del Rey, which are funded by the benefitting ground lessees. Through his deep understanding of requirements and practices of private sector development, Mr. Volpert has helped the County achieve the most favorable deals that can still be commercially reasonable for the lessees. Mr. Volpert has also provided invaluable advice regarding the Grand Avenue properties.

While the proposed agreement follows the CEO's general template for Delegated Authority Agreements authorized by the Board of Supervisors pursuant to Sections 23005 and 31000 of the California Government Code, the agreement incorporates modifications to some of the County's standard terms and conditions, such that it requires a separate approval by your Board. The substantive changes to these terms are as follows:

- **Mutual termination for convenience:** Ordinarily, services contracts include a clause allowing the County, but not the contractor, to terminate the agreement for convenience upon ten days notice. Because of the nature of the services, the CEO believes any additional liability from inclusion of a mutual termination to be minimal.
- **Limited GAIN/GROW Consideration:** Generally, services contracts require the contractor to obtain a list of participants in the County's Greater Avenues for Independence (GAIN) and General Relief Opportunities for Work (GROW) each time they make a hiring decision. Because Munger, Tolles is a large, elite law firm, they asked, and we concurred, that GAIN/GROW compliance be limited to hiring for services under the proposed contract, based on a list provided by the County, in order to reduce potentially onerous paperwork.
- **Limited Consideration of Hiring County Employees:** Generally, services contracts require the contractor to give first consideration to any permanent County employees who are targeted for layoff or qualified, former County employees who are on a re-employment list, whenever employees are needed to perform services under the County's contract. Munger, Tolles requested, and we agreed, that such consideration would be upon written notice by the County and that the definition of "first consideration" would be timely interviews and fair evaluation.
- **Indemnification:** Most services contracts require the contractor to indemnify the County against any liability and expense connected with the service performed. In lieu of County's standard language, Munger, Tolles will only agree to indemnify the County against judgments against the County for Munger, Tolles' negligent, acts, or omissions arising from the services it provides to the County under the agreement. We believe that the value of the services Munger, Tolles provides outweighs the potential liability under this agreement.
- **Termination for Default:** Upon a termination of the contract for contractor's default, most services contracts allow the County to bill the contractor for any similar goods or services obtained from other sources in the future.

Munger, Tolles requested, and we agreed, to limit the County's ability to bill Munger, Tolles for services provided by others only to the extent that the County already paid Munger, Tolles for, but Munger, Tolles did not fully deliver those services.

- Conflict of Interest Munger, Tolles requested, and we agreed, to the addition of a paragraph that requires the County to waive its right to assert a conflict of interest on the part of Munger, Tolles in limited circumstances for conflicts that may arise in the future as a result of work done under this agreement. However, this waiver by the County would not include Munger, Tolles' representation of third parties in the following circumstances: (1) the subject matter of any then current representation by Munger, Tolles of County; (2) leases, development agreements or other agreements about which Munger Tolles has provided services to the County; or (3) litigation over the real property rights of the County. With respect to all other conflict situations, Munger, Tolles will agree to establish an ethical wall between professional staff who perform work for the County and those professionals who are involved in a matter that is in an actual or potential conflict to the County.

CONTRACTING PROCESS

The proposed agreement is a sole-source agreement relying on the unique skills, knowledge, and relationships that Mr. Volpert brings to the County.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

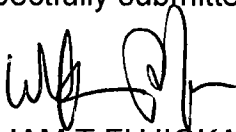
Board authorization for the CEO to enter into an agreement with Munger, Tolles, for the services of Mr. Volpert and other staff, will allow the CEO to continue to receive the unique and important advice and negotiation services that we have received for the last decade.

The Honorable Board of Supervisors
August 2, 2011
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CONCLUSION

Please return one adopted copy of this Board letter to the Chief Executive Office,
Capital Projects Division.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. T. Fujioka', written over the printed name.

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:RLR:DJT
MV:SVG:mc

c: Executive Office, Board of Supervisors
County Counsel
Auditor-Controller
Beaches and Harbors